

Minutes of the October 28, 2011 Regular Council Meeting

Call to Order and Flag Salute at 3:30 pm by Mayor Serio.

Council in Attendance: Serio, Bunting, Langan, Tingle, Carmean, Smallwood and Weistling
Absent: None

Auditor's Presentation – Tom Sombar

Mr. Sombar presented the Annual Audit Report to Council. He made special mention of the following:

- An increase in Realty Transfer Tax Revenue
- A decrease in Gross Rental Tax Revenue beginning in 2008
- A decrease in revenue from Licenses and Permits as well as from Grants, Traffic Fines and Parking Fines
- Administrative costs have increased but to a lesser degree than in 2008 and 2009
- Fenwick Island Police Department and the Public Works Department expenses were down; Beach Patrol expenses increased
- The Town has addressed issues identified in the Management Report
- The Town continues to be aggressive in investing funds and The Town's financial condition is strong and appears to be getting better

DISCUSSION

Council Member Smallwood noted that The Town should identify new revenue sources. Mr. Sombar advised that The Town has invested substantially in capital improvements and that is reflected in the balance sheet. Council Member Bunting added that The Town has received some grant fund revenue that did not arrive in time to be included in this audit.

President's Report

- Mayor Serio reported that the search for a new Town Manager continues. Interviews will be conducted in November.
- Mayor Serio announced that Committee appointments have been made (list attached to these minutes). Council will consider appointments to the Board of Adjustments, Board of Elections and Planning Commission and announce the members at a future meeting.

Topics for Discussion and Possible Action

a) Fenwick Freeze Request – Becka McWilliams

Mrs. McWilliams asked permission, on behalf of the Beach Committee, to hold the 8th Annual Fenwick Freeze on January 1, 2012. Event will take place on Bayard Street Beach beginning at 10:30 AM. The Committee will hold pre-registration at Town Hall on Friday and Saturday, December 30 and 31, from 11AM – 1PM at Town Hall. Arrangements are being made for EMS services. The Beach Committee is researching the purchase of two banners that can be placed at the entrances to Town that will announce the event. In response to a question from Mayor Serio, Mrs. McWilliams reported that the proceeds from the event will assist with the cost of sending guards to national competitions. Last year the Committee contributed nearly \$4,000 to send six guards to the competition and a "boot camp" and provided a party for all guards at the end of the season. They have approximately \$600 in reserve to purchase t-shirts for the 2012 Freeze.

Motion to permit the Beach Committee to hold the Fenwick Freeze 2012 – Council Member Carmean

Second – Council Member Langan

DISCUSSION - None

Vote: (7-0) Motion passed

b) Town Sign and Median Landscaping – Council Member Carmean

Council Member Carmean advised that the Environmental Committee believes that both the Town Sign and the medians need professional attention. They appear overgrown and weedy and no longer conform to the original design. Mrs. Carmean requested Council permission to review the conditions more thoroughly and that they be allowed to work with the Town Manager to explore possibilities for cleaning them up. The committee would return

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to Council with a detailed plan for refurbishing both the sign area and the median. Mrs. Carmean noted that the Fenwick Island Lions Club has expressed a desire to plant a tree in town and that it could replace a median tree that was damaged during Hurricane Irene.

DISCUSSION

Mayor Serio advised that DelDOT will need to be contacted before making any plans.

Approval of Minutes:

Motion to Approve the Minutes of September 16, 2011 Meeting - Council Member Carmean

Second: Council Member Bunting

DISCUSSION - None

Vote: (7-0) to accept the minutes. Minutes approved.

Treasurer's Report:

Council Member Bunting advised that the financial reports are in a slightly different format than previous months. Office staff will work with the accountant to restore the format for the next Council meeting. A new report is included that shows Solar Power generation and a comparison of cost for electricity 2010 vs. 2011. This will be a regular report.

Motion to accept the Treasurer's report – Council Member Tingle

Second – Council Member Langan

DISCUSSION - None

Vote: (7-0) Treasurer's Report accepted.

Town Manager Report:

- Interim Town Manager, Tom Wontorek, asked Council's direction regarding the Mobi Mats. He advised that the mats were placed at King, Georgetown, Dagsboro and Bayard Streets and were very popular. Petitions have been circulating to add mats to other streets. Mr. Wontorek noted that the removal and cleaning of the mats at the end of the season was labor intensive. Mats were found with sand and rocks imbedded in them and vegetation growing up through them. They were removed, power-washed and rolled for storage by the Public Works Department. Mr. Wontorek expressed concern that, should these mats need to be removed quickly due to impending weather, the Public Works Department would have a difficult time completing their other storm-related activities.

DISCUSSION

Mayor Serio advised that the availability of grant funds is the biggest factor as to whether or not to purchase more mats. Council will consider the time and cost of labor to maintain them when looking at future purchases. Council Member Bunting noted that the Budget Committee will consider Mobi Mats at its next meeting. These mats were to be a test of functionality as well as cost to maintain. Council Member Carmean added that she thinks the Public Safety Building and the streets are priorities.

Department Reports:

- Building Official – Patricia Schuchman advised that her report is included in the meeting packet. There was a new construction permit issued in September and another in October. There is one more permit pending for October and several permit inquiries to her office for more activities. This should increase her department's revenue.
- Public Works - Report included in meeting packet.
- Beach Patrol – No report.
- Fenwick Island Police Department – Chief Boyden reported that the radar sign at the north end of Town has been removed for warranty work.
 - Council Member Carmean noted that criminal arrests have increased and that the Nixle program is not working. Chief Boyden advised that this is due to the amount of time spent assisting DSP.

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No commercial or residential burglaries have been reported within the Town limits. There has been an increase in drug-related charges resulting from vehicle stops. The Nixle program has been purchased by another company has experienced technical problems. He believes it should be operational again soon.

Committee Reports:

- Beach Committee –No further report
- Environmental Committee – Council Member Carmean advised that the Committee is exploring topics and speakers for programs in the coming year. The Committee endorses the C&O Committee for its efforts relating to storm water management. Water quality in the bay appears to be improving. Next meeting is November 10, 2011 at 2:30 PM. Mrs. Carmean advised that there is an appeal hearing in Dover regarding the Lighthouse Cove Condominium piers. Mayor Serio advised that it is not a public hearing to be held locally and that the only persons who can speak are the condo representative and the person who has appealed the decision.
- Public Safety Building – Council Member Langan estimates that the project is 25% complete.

Planning Commission: No report

Charter & Ordinance

- Proposed First Reading Chapter 120 Property Maintenance – Council Member Weistling
- Motion to accept the First Reading – Council Member Weistling
Second – Council Member Carmean

DISCUSSION

Council Member Weistling asked that the Proposed First Reading be included in the minutes. He advised that it includes substantial changes regarding new surface and storm water management and that it includes fines and fees for non-compliance. Council Member Bunting asked if Mr. Weistling could explain the origins of this change. Council Member Weistling advised that the original request came out of the Environmental Committee. After inspections around town, the Charter and Ordinance Committee became aware of erosion problems. Building Official Schuchman noted that several CRS/FEMA changes are coming that address drainage issues. These changes will affect the Town's rating and this Ordinance change is an effort to address the issue. Mayor Serio added that she is aware that the Town has serious drainage issues and asked what can be done. Council Member Tingle advised that the Town of South Bethany has a good project that it is completing that uses swales/bio-retention areas. Mrs. Tingle questioned how the Town of Fenwick Island will address enforcement of the ordinance. Building Official Schuchman noted that each property will require inspection; she will investigate enforcement issues for a future meeting. Council Member Weistling advised that the intent is that water from downspouts will hit a surface and enter the soil before it reaches the canal. Council Member Smallwood expressed his belief that the current regulation(s) require the water to go into the canal; Mrs. Schuchman advised that practice is now discouraged by DNREC. This ordinance change will eliminate discharge directly into the waterways.

Vote (5-2) to approve the First Reading of Chapter 120 Property Maintenance. Council Members Tingle and Bunting voted No. There were no abstentions.

Old Business - None

New Business – No Action to be Taken – Council Member Smallwood encouraged everyone to take part in the 4th Annual Turkey Trot to be held on Thanksgiving Day. It is a charity walk/run and has become a popular activity that will benefit the New Friends of the Fenwick Lighthouse. Donated goods will be given to Safe Haven Animal Shelter.

Public Participation:

- Buzz Henifin (48 Windward Way) – noted that water draining directly into the Bay adds pollutants. He has directed the water runoff from his roof to a gravel area next to his house; water slowly percs down while filtering out pollutants. A rain garden will do the same thing.

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- John Belian (1 W Houston St) – thanked Council for allowing the Fenwick Island Fishing Club to hold its annual tournament on the beach. The weather was good and all participants received a prize that equaled or exceeded the registration fee. The tournament is held every year on the Saturday before Columbus Day.
- Marlene Quinn (5 W Houston St) – advised that the recent Cottage Tour was a success
- Lynn Andrews (1205 Schulz Rd) – noted that the parking fines appear to be down 47%. She asked if the Council would consider reinstating the Bicycle Police next summer. Mayor Serio advised that the use of the Bicycle Police was not cost effective and would not be reinstated.
- Lynn Andrews (continued) – asking the cost of maintaining the Mobi Mats. Interim Town Manager Wontorek advised that he will ask the Public Works Department to estimate the amount of time they expended to remove, clean and store the mats. Council Member Bunting added that the Town might be able to add mats over a few years until all the streets have one; Council Member Smallwood suggested adding one each year until done. Council Member Weistling advised that the Town did use a grant to purchase the mats noting that the Town would not have made the purchase without a grant.
- Dick Bowman (7 W Dagsboro St) – advised that the Lions Club will hold its annual Spaghetti dinner on November 5, 2011. See him for tickets.
- Mike Quinn (5 W Houston St) – asked about the recent change in the recycling pick up schedule. Council Member Bunting advised that the change to every other Friday takes into account those months with five Fridays in them.
- Mike Quinn (continued) – noting that he likes the Solar Panel report but was unclear on one chart. He will discuss it with Council after the meeting.

Upcoming Events and Meetings:

- Mayor Serio announced all upcoming meetings and events.

Motion to adjourn – Council Member Weistling

Second – Council Member Bunting

Vote: (7-0)

Meeting adjourned at 4:55 PM.

Agnes DiPietrantonio, Town Clerk

For Diane Tingle, Secretary

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Approved First Reading – October, 28, 2011
Proposed Second Reading – December 2, 2011

Town Committees 2010-2011

AUDIT

Gardner Bunting – Chair
Vicki Rymer
Audrey Serio

BUDGET

Gardner Bunting – Chair
Vicki Carmean
Gene Langan
John Lewis
Vicki Rymer
Audrey Serio
Todd Smallwood
Diane Tingle
Bill Weistling

BUILDING

John Belian
Jesse Sheppard
Reid Tingle
Bill Weistling

CHARTER AND ORDINANCE

Bill Weistling – Chair
Gene Langan – Vice Chair
Vicki Carmean
Buzz Henifin
Winnie Lewis
Mike Quinn
Diane Tingle

ENVIRONMENTAL

John Belian
Patti Breger
Vicki Carmean
John Fenton
Harry Haon
Betsy Henifin
Buzz Henifin
Susan Klein
Mary Ellen Langan
Richard Streett
Lois Twilley

BEACH

John Belian
Patti Breger
Tim Ferry
Vivian Jennings
Gene Langan
Lizbeth Lear
Rebecca McWilliams
Stuart Rubenstein
Lori Martin Smallwood

EMERGENCY MANAGEMENT

Audrey Serio – Chair
Dick Bowman
Chief William Boyden
Gardner Bunting
Gene Langan
Richard Mais

ADD:

§ 120-2. Surface and Storm Water Management on Private Property

In an attempt to reduce the discharge of pollutants and sediment in surface and storm water runoff and in an attempt to control erosion of the banks and waterways within the Town, the Town Council has adopted the following ordinance.

A. Downspouts on all new construction and/or on all substantial improvements to existing structures shall not extend beyond the front or rear setbacks and shall not be located closer than 5 feet from the side property line.

(1) Existing downspouts that exist in violation of this ordinance must be corrected at the junction the structure and pipe draining into the canal, lagoon, bay or other waterway meet by disabling said connection. Corrective action in accordance with the foregoing sentence must be performed within 3 years of the adoption of this ordinance.

B. All lots, both vacant and those improved with structures, shall have grass, vegetation or stone that will prevent any soil erosion onto or into streets, canals, lagoons, bays, other waterways and/or adjacent properties unless such lots are under construction. A "Certificate of Compliance" shall not be issued for any new construction and/or for a substantial improvement to an existing structure unless the property owner has complied with this Chapter.

C. Siltation fencing must be provided during any construction activity that creates a possibility for soil erosion.

D. Town rights-of-way must remain clear to allow for and in order to maintain proper drainage. Please see § 61-11 for additional information, restrictions and requirements in this regard.

E. The use of pervious surface materials outside of the buildable lot area is required to aid in reducing surface and storm water runoff and in order to maintain proper drainage. Please see § 160-6.A.(11) and § 61-11 for additional information, restrictions and requirements in this regard.

F. Drainage of any swimming or wading pool water not directly into a sanitary sewer shall only occur after the swimming pool water sits for a minimum of 7 days without the addition of any more chemicals.

EXISTING:

§ 120-2. Written notice of violation

In the event any lot owner shall fail to comply with § 120-1A or B hereof, he shall be given written notice, by certified mail, return receipt requested, of the violation, which notice shall specify the action necessary to correct the violation. The owner shall be required to take the corrective action of a violation of § 120-1A within 30 days of such notice. The owner shall be required to take the corrective action of a violation of § 120-1B within 10 days of such notice.

PROPOSED:

§ 120-3. Written notice of violation

In the event any lot owner shall fail to comply with § 120-1.A., § 120-1.B., § 120-2.A.(1) or § 120-2B., hereof, he shall be given written notice, by certified mail, return receipt requested, of the violation, which notice shall specify the action necessary to correct the violation. The owner shall be required to take the corrective action of a violation of § 120-1.A., § 120-2.A.(1) or § 120-2B. within 30 days of such notice. The owner shall be required to take the corrective action of a violation of § 120-1.B., within 10 days of such notice.

EXISTING:

§ 120-3. Failure to comply with notice.

TASK FORCE ad hoc COMMITTEES (appointed until task completed)

PUBLIC PARK – CANNON ST

Audrey Serio – Chair
Linda Bunting
Vicki Carmean
Buzz Henifin
Lois Twilley
David Walker

PUBLIC WORKS BUILDING (existing)

Audrey Serio – Chair
Gene Langan – Point Person
Todd Smallwood (Financial)
Patricia Schuchman (Advisory)
Bill Weistling (Point Person)

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In the event the owner fails to comply with such notice within the time set forth, he shall be deemed to be guilty of maintaining a nuisance and/or unsanitary condition. Therefore, the Town of Fenwick Island shall have:

A. As to a violation of § 120-1A, the authority (be empowered) to both take such steps as it deems necessary to cure said violation at the expense of the owner and impose a fine of \$500 for each thirty-day period in which the violation is not cured.

PROPOSED:

§ 120-4. Failure to comply with notice.

In the event the owner fails to comply with such notice within the time set forth, he shall be deemed to be guilty of maintaining a nuisance and/or unsanitary condition. Therefore, the Town of Fenwick Island shall have:

Add:

C. As to a violation of § 120-2.A.(1) or § 120-2.B., the authority to take such steps as it deems necessary to cure said violation, including the option of hiring a professional and licensed contractor to perform the work, which shall be done at the expense of the owner, and to impose a fine of \$500 for each thirty-day period in which the violation is not cured.

EXISTING:

§ 120-4. Repeat offenses; service fee.

In any calendar year in which an owner has been notified of his violation of § 120-1B pursuant to § 120-2 and the owner subsequently repeats the violation, the town will clear the property pursuant to § 120-3 without an additional written notice to the owner, and a separate service fee of \$250 will be charged for each such clearing. The owner will be advised of this procedure in the written notice of the first violation.

PROPOSED:

§ 120-5. Repeat offenses; service fee.

In any calendar year in which an owner has been notified of his violation of § 120-1B pursuant to § 120-3 and the owner subsequently repeats the violation, the town will clear the property pursuant to § 120-4 without an additional written notice to the owner, and a separate service fee of \$500 will be charged for each such clearing. The owner will be advised of this procedure in the written notice of the first violation.

EXISTING:

§ 120-5. Unpaid fee to become lien against lot.

The expense of the cure and the fine(s) under § 120-3 and the service fee of the \$250 under § 120-4 shall each constitute a lien against the lot in question which lien shall be enforceable and collectible by the means provided for the collection of delinquent taxes under the law of the State of Delaware and the Town of Fenwick Island.

PROPOSED:

§ 120-6. Unpaid fee to become lien against lot.

The expense of the cure and the fine(s) under § 120-4 and the service fee of \$500 under § 120-5 shall each constitute a lien against the lot in question which lien shall be enforceable and collectible by the means provided for the collection of delinquent taxes under the law of the State of Delaware and the Town of Fenwick Island.

Posted: October 31, 2011